

Commission for Mental Health Developmental Disabilities and Substance Abuse Services

**Commission Meeting Minutes
February 11, 2002
Holiday Inn North, Raleigh, NC**

Commission Members Present

Pender McElroy (Chair), Martha Martinat, Judy Lewis, Martha Macon, Lois Batton, Dorothy Crawford, Pearl L. Finch, William Sims, Paul Gulley, Lou Adkins, Albert Fisher, Patricia Chamings, Bruce Whitaker, Floyd McCullouch, Jeanne Fenner, Fredrica Stell, Donald Stedman, George Jones, Raymond Reddrick, Joe Coulter, Bernard Sullivan, Anna Scheyett, Ellen Holliman, Marvin Swartz, Emily Moore and Mansfield Elmore

Commission Members Absent

Ann Suggs (excused), Ken Gerrard (unexcused)

Commission Staff Present (DMH/DD/SAS)

Dr. Richard Visingardi, Director for MH/DD/SAS
Dr. Art Robarge, Deputy Director for MH/DD/SAS
Tara Larson, Assistant Director for Quality Assurance and Management
Marilyn Brothers, Hearing Officer, DMH/DD/SAS
Jeff Horton, Division of Facility Services
Jill Newkirk, DMH/DD/SAS
Cindy Kornegay, DMH/DD/SAS
Susan Collins, DMH/DD/SAS

OTHERS PRESENT

Kyle Fay (DMA), Phyllis Portie-Asalt (Alpha Management Svcs.), Joann H. Long (Matchbox Health Svcs.), Brenda Rubiano (Meck. AMH), Kevin Oliver (Meck. AMH), David Swann (Crossroads Behavioral Healthcare), Debra Deal (Pitt Memorial Health), Nancy Hunt (Wilson-Greene AMH), Pat Adams (Edgecombe-Nash AMH), Cynthia Temoshenko (GACPD), Debbie Kinert (Parent/Consumer), Bob Hedrick (Providers Council), Jack Blackley (DMH/DD/SAS), Tom Smith (Friends of Public MH), Beth Melcher (NAMI), Sally Cameron (NC Psychological Assoc.), Diane Pomper (AG's office), Carol Duncan Clayton (NC Council), Bob Kurtz (DMH/DD/SAS), Mary Eldridge (DMH/DD/SAS), Stan Slawinski (DMH/DD/SAS), Philip Veenhuis (DMH/DD/SAS), Martha Brock (Client Advocacy), Joe Donovan (NAMI), Dan Jones (Onslow BHS), Robin Huffman (NC Psychiatric Assoc.), Flo Stein (DMH/DD/SAS), Martha Kaufman (DMH/DD/SAS), Ann Rodriguez (NC Council), Don Willis (DMH/DD/SAS), Gene Rodgers (Health Force), Charles Franklin (AMHC), Christine Heinberg (Carolina Legal Assistance), Jim Jarrard (DMH/DD/SAS), Dena Reeves (HSP), Jerry Edwards (Cherry Hospital), Debbie Siegel (DD Council), Louise Fisher (Advocate for Mentally Ill), Wilda Brown (MRA), Connie Cochran (UCP-C2001), Fred Waddle (NCCSPC Providers Council)

Call to Order

Pender McElroy, Chairman of the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services, called the meeting to order. Chairman McElroy read the "Reading of the Ethics Statement" and "Conflict of Interest".

Chairman McElroy, stated that the Board of Ethics found Dr. Marvin Swartz and Anne Scheyett had no conflict of interest but because of work there is a potential for conflict.

Chairman McElroy recognized the newest DMH/DD/SAS Commission members: Anna Marie Scheyett, from the UNC-CH School of Social Work; Ellen Holliman of Davidson County; Dr. Marvin Swartz of Duke University; and Dr. Bernard Sullivan of Gastonia.

Approval to Minutes

Upon motion by Fredrica Stell and second by Raymond Reddick, the Commission members unanimously approved the minutes of the November 13, 2001 Commission meeting.

Election of Vice Chairman

Martha Martinat made a motion to elect Emily Moore vice chairman of the Commission. Pearl Finch seconded. The motion passed unanimously.

Director's Report

Lanier Cansler, Deputy Secretary of DHHS, introduced Dr. Richard Visingardi, Director of the Division of Mental Health, Developmental Disabilities and Substance Abuse Services. Dr. Visingardi started his new position on February 4, 2002. Before coming to North Carolina, Dr. Visingardi was previously employed as the Chief Executive Officer of the Oakland County Community Mental Health Authority in Michigan. Mr. Cansler noted that the Department is focused on improving the mental health system.

Dr. Visingardi explained that his major reason for accepting the MH/DD/SAS Director's position was the direction of the State Plan. He has a great deal of faith in the system. Dr. Visingardi explained that his main concerns are trying to learn the Division, learn the culture through the system and asked everyone to be patient. He is aware of the budget issues, but is looking forward to the opportunity of doing great things across the state.

Chairman McElroy stated he is looking forward to working with Dr. Visingardi.

Legislative Oversight Committee Report

Tara Larson updated the Commission on meetings of the Legislative Oversight Committee for MH/DD/SAS Reform. The LOC has two work groups: the Funding Work Group and the Commission for MH/DD/SAS Work Group. The Proposed LOC meeting schedule for 2002 was distributed. Tara Larson presented at the LOC meeting Funding Work Group meeting on February 7, 2002. Minutes from LOC work group meetings will be mailed to commission members. The 122C Legislative rules book has been ordered. Mr. McElroy reported that he spoke to the Commission Work Group on February 7, 2002. He told the work group that all rule making authority should be vested in the

Commission; that terms should be longer than three years to enable Commission members become knowledgeable about the system while still serving; and that the Commission should have a dedicated staff person for coordination and assistance.

Update of Seclusion/Restraints Rules

Tara Larson stated that during the 2000 Legislative sessions, the Legislature passed the Seclusion/Restraints Bill. Components of the bill included death reporting, regulation of seclusion and restraints, access to information, etc. It specifically directed the Commission to adopt rules to implement the provisions of the law, including staff training and competency, emphasis on the usage of alternative to seclusion and physical restraints and personnel requirements. The Rules Committee and Commission met several times, and the Commission adopted new rules and amended existing rules to bring the rules into compliance with the legislation at its September 2001 meeting. A fiscal note was distributed after the new rules and rules changes were adopted. Per Commission instructions and discussion, additional work was done on the fiscal note. Tara distributed the revised fiscal note.

Kyle Fay presented the revised fiscal note for the Seclusion and Restraint Rules to reflect the rule language as adopted by the Commission at the September 2001 meeting. The revised note showed a fiscal impact of \$4.6 million for all the new/revised rules. Reductions were based on assumptions made regarding curriculum development, the number of staff requiring training in the use of seclusion and restraint, the number of unlicensed provider staff and reductions in the required length of training.

The Secretary has divided the new rules and rules changes adopted by the Commission into three categories: (1) Those rules having minimal or no fiscal impact; (2) those rules having fiscal impact but, in the opinion of the Secretary, are required by the legislation; and, (3) those rules having fiscal impact but, in the opinion of the Secretary, not required by the legislation. The Secretary has forwarded the rule in category 1 to the Rules Review Commission, but not the other two categories.

Final Commission Action

Floyd McCullough made a motion to amend the debriefing rule language adopted at the September Commission meeting to reflect the Council on MHDDSAS Community programs' position as stated below. *The Council supports requiring a debriefing for emergency or unplanned use of restrictive intervention. For planned use of restrictive interventions, the Council proposes that it is required that the treatment plan address under what circumstances (e.g. behavior) and what frequency debriefing (e.g. each occurrence, each day, each week) will occur.*

Judy Lewis seconded. The motion passed unanimously.

Joe Coulter made a motion to approve the Catchment Areas Rules. Pearl Finch seconded. The motion passed unanimously.

Rules Committee Report

Floyd McCullough, Chair of the Rules Committee, updated the Commission on the January 9, 2002 meeting. (January 9th minutes attached).

Advocacy Report

Charlotte Jordan, with Advocacy and Client Rights, reported on investigations by the internal advocates in the eight State mental health facilities for 2001. The purpose of this information is to furnish the Commission with data on the results of the internal advocacy investigations for the last year. (Handout attached) Martha Macon recommended Charlotte Jordan continue this discussion at the Advisory Committee meeting.

Authority of the Commission and the Secretary

Diana Pomper from the Attorney General's Office explained the authority of the Commission and the Secretary. Rules filed with the Rules Review Commission have been delayed from review at mutual request of the Division and petitioners (NAMI, GACPD and Carolina Legal Assistance) in attempt to come to resolution outside of the Rules Review Commission. Rules must be reviewed and approved no later than the April meeting of the Rules Committee in order to become permanent in 2002. Temporary language remains in effect until permanent rule language is approved or withdrawn.

Rules approved in September and not filed and sent forward for permanent adoption by the Commission for MH/DD/SAS will need to be republished with an additional 30-day comment period before going to the Rules Review Commission.

- Due to substantial changes in language from the original language published for temporary rules
- Cannot become effective before 2003

It is likely that the Rules Review Commission may object to rule language. When this occurs the rule adopting agency must: convince Rules Review Commission why the language is not ambiguous etc., or change the language, or withdraw the language

Budget Update

Tara Larson updated the Commission on the impact of State budget reductions on MH/DD/SAS.

New Business

Judy Lewis informed the Commission members that a very nice article was written in the Charlotte Observer on Pender McElroy entitled "Local Attorney Leads Efforts to Advocate for the Mentally Ill." (Article attached).

On behalf of the commission members, Dr. Paul Gulley expressed appreciation to Dr. Art Robarge for his service on the Commission as Acting Director of the Division of MH/DD/SAS.

The State Plan will be discussed at the next Advisory Committee meeting.

Speakers for the Public Hearing: (written comments attached):

Tom Smith, M.D., Friends of Public Mental Health

Debbie Kinert, Parent/Consumer

Louise Fisher, Advocate for Mentally Ill

By unanimous consent, the meeting was adjourned.

Minutes prepared by Jill Newkirk, Division Staff.

Minutes approved by Pender McElroy.